IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 988 OF 2005

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Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's Orders	Court's or Judge's Orders

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Mr. B.P.Shah for the appellants.

Mr. B. K. Barne i/by M/s. B. K & Co. for the respondent.

CORAM : ANOOP V. MOHTA,J.

DATED : 9th July, 2007

P.C.

1. The appellants who are the original defendants, by this second Appeal have challenged the concurrent findings given by the Courts belows observing that the original plaintiffs/ respondents was in possession of the property in question based on the Registered documents and thereby restrained the defendants /appellants perpetually, from obstructing and interfering the possession of the land in

question.

2. The learned counsel appearing for the appellants basically submits that in the cross-examination, there is an admission given by the plaintiffs that there was no documentary evidence to show the possession and further that till 1979 the name was not muted on 7/12 extract of the suit land. The basic contention, therefore, is that in absence of any documentary evidence to show that the suit property is in the possession of plaintiffs, the findings given by the Courts below is incorrect. The learned counsel appearing for the respondent/ original plaintiffs, however resisted the same and pointed out that admittedly based on the original agreements for sale and on the sale-deed, the

plaintiffs possession has been recorded that itself is sufficient for the courts below to order to grant the decree. The subsequent 7/12 extract also reflects the possession of the property.

3. There is no perversity as such and of any material to interfere with this finding of the facts so far as the possession in question. There is no requirement that there should be documentary evidence to show the possession of the suit land specially when admittedly based on the registered documents, the plaintiffs have been in physical possession of the property since then.

4. Resultantly, the Second Appeal is dismissed. No costs.

[ANOOP V. MOHTA, J.]